

55-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

STEVE HULBERT, et al.,  
PLAINTIFFS,  
v.  
ANTHONY HITCHENS, et al.,  
DEFENDANTS.

Case No. CV 15-7459 DDP (SS)

**ORDER SUMMARILY REMANDING  
IMPROPERLY-REMOVED ACTION AND  
DENYING AS MOOT MOTION TO  
REMAND**

[DKT. NO. 9]

The Court will remand this unlawful detainer action to state court summarily because Defendant removed it improperly.

On September 23, 2015, Defendant Anthony Hitchens, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice Of Removal of that action to this Court and also presented an application to proceed in forma pauperis. (Notice of Removal, Dkt. No. 1; IFP Application, Dkt. No. 3). On September 29, 2015, Plaintiffs Steve Hulbert and M and A Management moved to remand this action to state court. (Motion to Remand, Dkt. No. 9).

1       The Court has denied the application to proceed in forma  
2 pauperis under separate cover because the action was not properly  
3 removed. To prevent the action from remaining in jurisdictional  
4 limbo, the Court issues this Order to remand the action to state  
5 court. In light of the summary remand of this action,  
6 Plaintiffs' Motion to Remand is denied as moot.

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8       Simply stated, this action could not have been originally  
9 filed in federal court because the complaint does not competently  
10 allege facts supporting either diversity or federal-question  
11 jurisdiction, and therefore removal is improper. 28 U.S.C.  
12 § 1441(a), see Exxon Mobil Corp v. Allapattah Svcs., Inc., 545  
13 U.S. 546, 563 (2005). Defendant's notice of removal asserts that  
14 Plaintiffs' unlawful detainer action presents a federal question  
15 arising under the Protecting Tenants at Foreclosure Act of 2009,  
16 12 U.S.C. section 5220 ("PTFA"). (Notice at 2-7). Defendant is  
17 incorrect and, to the extent that Defendant will attempt to raise  
18 defenses available under the PTFA in the unlawful detainer  
19 action, these attempts are inadequate to confer federal question  
20 jurisdiction. Merrell Dow Pharmaceuticals, Inc. v. Thompson, 478  
21 U.S. 804, 808 (1986) ("A defense that raises a federal question  
22 is inadequate to confer federal jurisdiction.").

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1 Accordingly, IT IS ORDERED that (1) this matter be REMANDED  
2 to the Superior Court of California, County Of Los Angeles, 2728  
3 West 176th Street, Torrance, CA 90504, for lack of subject matter  
4 jurisdiction pursuant to 28 U.S.C. § 1447(c); (2) Plaintiffs'  
5 Motion to Remand be DENIED as moot; (3) the Clerk send a  
6 certified copy of this Order to the state court; and (4) the  
7 Clerk serve copies of this Order on the parties.

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9 IT IS SO ORDERED.

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11 DATED: 10/8/15



12 DEAN D. PREGERSON  
13 UNITED STATES DISTRICT JUDGE  
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